

August 9 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

FILED

AUG 10 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANANANCY SWEENEY
CLERK DISTRICT COURT
FILED BY: J. STEAD
DEPUTY

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MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTYBNSF RAILWAY COMPANY, a
Delaware corporation,

Petitioner,

v.

CHAD CRINGLE and MONTANA
DEPARTMENT OF LABOR,
HUMAN RIGHTS COMMISSION,

Respondents.

Cause No. BDV-2009-1016

ORDER ON MOTION
FOR APPROVAL OF
SUPERSEDEAS BOND

This case has an extensive procedural history that can be reviewed by the interested reader in this Court's Order of July 12, 2010. This Court hereby adopts all of the Findings of Fact and Conclusions of Law of its July 12, 2010 Order, except as herein specified.

In this Court's July 12, 2010 Order, it denied BNSF's motion for stay of execution of judgment pending appeal and denied approval of the *supersedeas* bond. Since this Court issued that Order, the Montana Supreme Court, on August 3, 2010,

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1 affirmed this Court's order denying the stay of execution. However, on July 22, 2010,
2 BNSF supplied a new *supersedeas* bond in the amount of \$555,190.71.

3 One of the reasons this Court earlier denied BNSF's motion for stay was
4 the inadequacy of the proposed bond. Clearly, the bond now proposed is adequate. It
5 should not only cover the underlying judgment, but also attorney fees and interest.
6 Although the other reasons announced by this Court in its July 12, 2010 Order still
7 exist, this Court feels with the provision of the new *supersedeas* bond it should grant
8 BNSF's motions for stay of execution of judgment pending appeal and approve the
9 new *supersedeas* bond.

10 Based on the above and incorporating this Court's rationale contained in
11 its July 12, 2010 Order, this Court hereby approves BNSF's new *supersedeas* bond
12 filed with this Court on or about July 22, 2010, and this Court grants a stay of
13 execution of this Court's judgment pending the final outcome in front of the Montana
14 Supreme Court.

15 DATED this 9 day of August 2010.

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18 JEFFREY M. SHERLOCK
District Court Judge

19 pcs: Clerk of the Montana Supreme Court
20 Jeff Hedger/Benjamin O. Rechtfertig
21 Terry Trieweler
22 Marieke Beck

23 T/JMS/bnsf v cringle ord motion approval supersedeas bond.wpd
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